

COMMITTEE PRINT

JULY 2, 2003

Showing the Text of H. R. 1085

As Approved by the Subcommittee on Space and Aeronautics

On June 26, 2003

108TH CONGRESS
1ST SESSION

H. R. 1085

To make certain workforce authorities available to the National Aeronautics and Space Administration, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

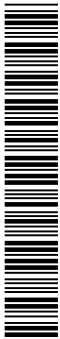
MARCH 5, 2003

Mr. BOEHLERT introduced the following bill; which was referred to the Committee on Science, and in addition to the Committee on Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To make certain workforce authorities available to the National Aeronautics and Space Administration, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*



1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “NASA Flexibility Act
3 of 2003”.

4 **SEC. 2. COMPENSATION FOR CERTAIN EXCEPTED PER-**
5 **SONNEL.**

6 (a) IN GENERAL.—Subparagraph (A) of section
7 203(c)(2) of the National Aeronautics and Space Act of
8 1958 (42 U.S.C. 2473(c)(2)(A)) is amended by striking
9 “the highest rate of grade 18 of the General Schedule of
10 the Classification Act of 1949, as amended,” and inserting
11 “the rate of basic pay payable for level III of the Executive
12 Schedule,”.

13 (b) EFFECTIVE DATE.—The amendment made by
14 this section shall take effect on the first day of the first
15 pay period beginning on or after the date of enactment
16 of this Act.

17 **SEC. 3. WORKFORCE AUTHORITIES.**

18 (a) IN GENERAL.—Subpart I of part III of title 5,
19 United States Code, is amended by inserting after chapter
20 97, as added by section 841(a)(2) of the Homeland Secu-
21 rity Act of 2002 (Public Law 107–296; 116 Stat. 2229),
22 the following:

23 **“CHAPTER 98—NATIONAL AERONAUTICS**
24 **AND SPACE ADMINISTRATION**

“Sec.

“9801. Definitions.

“9802. Planning, notification, and reporting requirements.



“9803. Restrictions.
“9804. Recruitment, redesignation, and relocation bonuses.
“9805. Retention bonuses.
“9806. Term appointments.
“9807. Pay authority for critical positions.
“9808. Assignments of intergovernmental personnel.
“9809. Enhanced demonstration project authority.
“9810. Voluntary separation incentive payments.
“9811. Science and technology scholarship program.
“9812. Distinguished scholar appointment authority.
“9813. Travel and transportation expenses of certain new appointees.
“9814. Annual leave enhancements.
“9815. Limited appointments to Senior Executive Service positions.
“9816. Qualifications pay.
“9817. Reporting requirement.

1 **“§ 9801. Definitions**

2 “For purposes of this chapter—

3 “(1) the term ‘Administration’ means the Na-
4 tional Aeronautics and Space Administration;

5 “(2) the term ‘Administrator’ means the Ad-
6 ministrator of the National Aeronautics and Space
7 Administration;

8 “(3) the term ‘critical need’ means a specific
9 and important requirement of the Administration’s
10 mission that the Administration is unable to fulfill
11 because the Administration lacks the appropriate
12 employees because—

13 “(A) of the inability to fill positions; or

14 “(B) employees do not possess the req-
15 uisite skills;

16 “(4) the term ‘employee’ means an individual
17 employed in or under the Administration;



1 “(5) the term ‘workforce plan’ means the plan
2 required under section 9802(a);

3 “(6) the term ‘appropriate committees of Con-
4 gress’ means—

5 “(A) the Committees on Government Re-
6 form, Science, and Appropriations of the House
7 of Representatives; and

8 “(B) the Committees on Governmental Af-
9 fairs, Commerce, Science, and Transportation,
10 and Appropriations of the Senate;

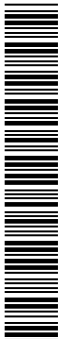
11 “(7) the term ‘redesignation bonus’ means a
12 bonus under section 9804 paid to an individual de-
13 scribed in subsection (a)(2) thereof;

14 “(8) the term ‘supervisor’ has the meaning
15 given such term by section 7103(a)(10); and

16 “(9) the term ‘management official’ has the
17 meaning given such term by section 7103(a)(11).

18 **“§ 9802. Planning, notification, and reporting require-**
19 **ments**

20 “(a) Not later than 90 days before exercising any of
21 the workforce authorities made available under this chap-
22 ter, the Administrator shall submit a written plan to the
23 appropriate committees of Congress. Such plan shall be
24 developed in consultation with the Office of Personnel
25 Management.



1 “(b) A workforce plan shall include a description of—

2 “(1) each critical need of the Administration
3 and the criteria used in the identification of that
4 need;

5 “(2)(A) the functions, approximate number,
6 and classes or other categories of positions or em-
7 ployees that—

8 “(i) address critical needs; and

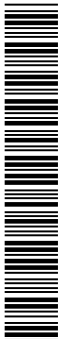
9 “(ii) would be eligible for each authority
10 proposed to be exercised under section 9803;
11 and

12 “(B) how the exercise of those authorities with
13 respect to the eligible positions or employees involved
14 would address each critical need identified under
15 paragraph (1);

16 “(3)(A) any critical need identified under para-
17 graph (1) which would not be addressed by the au-
18 thorities made available under this chapter; and

19 “(B) the reasons why those needs would not be
20 so addressed;

21 “(4) the specific criteria to be used in deter-
22 mining which individuals may receive the benefits
23 described under sections 9804, 9805 (including the
24 criteria for granting bonuses in the absence of a



1 critical need), and 9810, and how the level of those
2 benefits will be determined;

3 “(5) the safeguards or other measures that will
4 be applied to ensure that this chapter is carried out
5 in a manner consistent with merit system principles;

6 “(6) the means by which employees will be af-
7 farded the notification required under subsections
8 (c) and (d)(1)(B);

9 “(7) the methods that will be used to determine
10 if the authorities exercised under this chapter have
11 successfully addressed each critical need identified
12 under paragraph (1); and

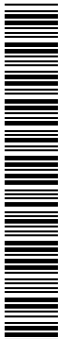
13 “(8)(A) the recruitment methods used by the
14 Administration before the enactment of this chapter
15 to recruit highly qualified individuals; and

16 “(B) the changes the Administration will imple-
17 ment after the enactment of this chapter in order to
18 improve its recruitment of highly qualified individ-
19 uals, including how it intends to use—

20 “(i) nongovernmental recruitment or place-
21 ment agencies; and

22 “(ii) Internet technologies.

23 “(c) Not later than 60 days before first exercising
24 any of the workforce authorities made available under this
25 chapter, the Administrator shall provide to all employees



1 the workforce plan and any additional information which
2 the Administrator considers appropriate.

3 “(d)(1)(A) The Administrator may from time to time
4 modify the workforce plan. Not later than 90 days before
5 implementing any such modifications, the Administrator
6 shall submit a description of the proposed modifications
7 to the appropriate committees of Congress.

8 “(B) Not later than 60 days before implementing any
9 such modifications, the Administrator shall provide an ap-
10 propriately modified plan to all employees of the Adminis-
11 tration and to the appropriate committees of Congress.

12 “(2) Any reference in this chapter or any other provi-
13 sion of law to the workforce plan shall be considered to
14 include any modification made in accordance with this
15 subsection.

16 “(e) Before submitting any written plan under sub-
17 section (a) (or modification under subsection (d)) to the
18 appropriate committees of Congress, the Administrator
19 shall—

20 “(1) provide to each employee representative
21 representing any employees who might be affected
22 by such plan (or modification) a copy of the pro-
23 posed plan (or modification);

24 “(2) give each representative 30 calendar days
25 (unless extraordinary circumstances require earlier



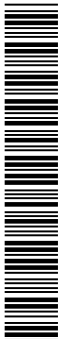
1 action) to review and make recommendations with
2 respect to the proposed plan (or modification); and
3 “(3) give any recommendations received from
4 any such representatives under paragraph (2) full
5 and fair consideration in deciding whether or how to
6 proceed with respect to the proposed plan (or modi-
7 fication).

8 “(f) None of the workforce authorities made available
9 under this chapter may be exercised in a manner incon-
10 sistent with the workforce plan.

11 “(g) Whenever the Administration submits its per-
12 formance plan under section 1115 of title 31 to the Office
13 of Management and Budget for any year, the Administra-
14 tion shall at the same time submit a copy of such plan
15 to the appropriate committees of Congress.

16 “(h) Not later than 6 years after the date of enact-
17 ment of this chapter, the Administrator shall submit to
18 the appropriate committees of Congress an evaluation and
19 analysis of the actions taken by the Administration under
20 this chapter, including—

21 “(1) an evaluation, using the methods described
22 in subsection (b)(7), of whether the authorities exer-
23 cised under this chapter successfully addressed each
24 critical need identified under subsection (b)(1);



1 “(2) to the extent that they did not, an expla-
2 nation of the reasons why any critical need (apart
3 from the ones under subsection (b)(3)) was not suc-
4 cessfully addressed; and

5 “(3) recommendations for how the Administra-
6 tion could address any remaining critical need and
7 could prevent those that have been addressed from
8 recurring.

9 “(i) The budget request for the Administration for
10 the first fiscal year beginning after the date of enactment
11 of this chapter and for each fiscal year thereafter shall
12 include a statement of the total amount of appropriations
13 requested for such fiscal year to carry out this chapter.

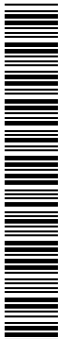
14 **“§ 9803. Restrictions**

15 “(a) None of the workforce authorities made available
16 under this chapter may be exercised with respect to any
17 officer who is appointed by the President, by and with the
18 advice and consent of the Senate.

19 “(b) Unless specifically stated otherwise, all work-
20 force authorities made available under this chapter shall
21 be subject to section 5307.

22 **“§ 9804. Recruitment, redesignation, and relocation**
23 **bonuses**

24 “(a) Notwithstanding section 5753, the Adminis-
25 trator may pay a bonus to an individual, in accordance



1 with the workforce plan and subject to the limitations in
2 this section, if—

3 “(1) the Administrator determines that the Ad-
4 ministration would be likely, in the absence of a
5 bonus, to encounter difficulty in filling a position;
6 and

7 “(2) the individual—

8 “(A) is newly appointed as an employee of
9 the Federal Government;

10 “(B) is currently employed by the Federal
11 Government and is newly appointed to another
12 position in the same geographic area; or

13 “(C) is currently employed by the Federal
14 Government and is required to relocate to a dif-
15 ferent geographic area to accept a position with
16 the Administration.

17 “(b) If the position is described as addressing a crit-
18 ical need in the workforce plan under section
19 9802(b)(2)(A), the amount of a bonus may not exceed—

20 “(1) 50 percent of the employee’s annual rate
21 of basic pay (including comparability payments
22 under sections 5304 and 5304a) as of the beginning
23 of the service period multiplied by the service period
24 specified under subsection (d)(1)(B)(i); or



1 “(2) 100 percent of the employee’s annual rate
2 of basic pay (including comparability payments
3 under sections 5304 and 5304a) as of the beginning
4 of the service period.

5 “(c) If the position is not described as addressing a
6 critical need in the workforce plan under section
7 9802(b)(2)(A), the amount of a bonus may not exceed—

8 “(1) 25 percent of the employee’s annual rate
9 of basic pay (including comparability payments
10 under sections 5304 and 5304a) as of the beginning
11 of the service period multiplied by the service period
12 specified under subsection (d)(1)(B)(i); or

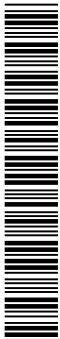
13 “(2) 100 percent of the employee’s annual rate
14 of basic pay (including comparability payments
15 under sections 5304 and 5304a) as of the beginning
16 of the service period.

17 “(d)(1)(A) Payment of a bonus under this section
18 shall be contingent upon the individual entering into a
19 service agreement with the Administration.

20 “(B) At a minimum, the service agreement shall
21 include—

22 “(i) the required service period;

23 “(ii) the method of payment, including a pay-
24 ment schedule, which may include a lump-sum pay-



1 ment, installment payments, or a combination there-
2 of;

3 “(iii) the amount of the bonus and the basis for
4 calculating that amount; and

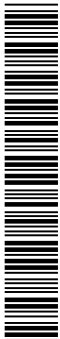
5 “(iv) the conditions under which the agreement
6 may be terminated before the agreed-upon service
7 period has been completed, and the effect of the ter-
8 mination.

9 “(2) For purposes of determinations under sub-
10 sections (b)(1) and (c)(1), the employee’s service period
11 shall be expressed as the number equal to the full years
12 and twelfth parts thereof, rounding the fractional part of
13 a month to the nearest twelfth part of a year. The service
14 period may not be less than 6 months and may not exceed
15 4 years.

16 “(3) A bonus under this section may not be consid-
17 ered to be part of the basic pay of an employee.

18 “(e) Before paying a bonus under this section, the
19 Administration shall establish a plan for paying recruit-
20 ment, redesignation, and relocation bonuses, subject to ap-
21 proval by the Office of Personnel Management.

22 “(f) No more than 25 percent of the total amount
23 in bonuses awarded under subsection (a) in any year may
24 be awarded to supervisors or management officials.



1 **“§ 9805. Retention bonuses**

2 “(a) Notwithstanding section 5754, the Adminis-
3 trator may pay a bonus to an employee, in accordance with
4 the workforce plan and subject to the limitations in this
5 section, if the Administrator determines that—

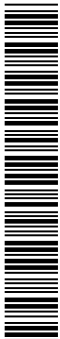
6 “(1) the unusually high or unique qualifications
7 of the employee or a special need of the Administra-
8 tion for the employee’s services makes it essential to
9 retain the employee; and

10 “(2) the employee would be likely to leave in
11 the absence of a retention bonus.

12 “(b) If the position is described as addressing a crit-
13 ical need in the workforce plan under section
14 9802(b)(2)(A), the amount of a bonus may not exceed 50
15 percent of the employee’s annual rate of basic pay (includ-
16 ing comparability payments under sections 5304 and
17 5304a).

18 “(c) If the position is not described as addressing a
19 critical need in the workforce plan under section
20 9802(b)(2)(A), the amount of a bonus may not exceed 25
21 percent of the employee’s annual rate of basic pay (includ-
22 ing comparability payments under sections 5304 and
23 5304a).

24 “(d)(1)(A) Payment of a bonus under this section
25 shall be contingent upon the employee entering into a serv-
26 ice agreement with the Administration.



1 “(B) At a minimum, the service agreement shall
2 include—

3 “(i) the required service period;

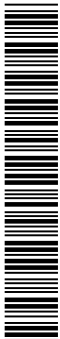
4 “(ii) the method of payment, including a pay-
5 ment schedule, which may include a lump-sum pay-
6 ment, installment payments, or a combination there-
7 of;

8 “(iii) the amount of the bonus and the basis for
9 calculating the amount; and

10 “(iv) the conditions under which the agreement
11 may be terminated before the agreed-upon service
12 period has been completed, and the effect of the ter-
13 mination.

14 “(2) The employee’s service period shall be expressed
15 as the number equal to the full years and twelfth parts
16 thereof, rounding the fractional part of a month to the
17 nearest twelfth part of a year. The service period may not
18 be less than 6 months and may not exceed 4 years.

19 “(3) Notwithstanding paragraph (1), a service agree-
20 ment is not required if the Administration pays a bonus
21 in biweekly installments and sets the installment payment
22 at the full bonus percentage rate established for the em-
23 ployee, with no portion of the bonus deferred. In this case,
24 the Administration shall inform the employee in writing
25 of any decision to change the retention bonus payments.



1 The employee shall continue to accrue entitlement to the
2 retention bonus through the end of the pay period in which
3 such written notice is provided.

4 “(e) A bonus under this section may not be consid-
5 ered to be part of the basic pay of an employee.

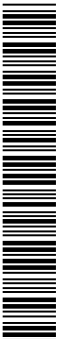
6 “(f) An employee is not entitled to a retention bonus
7 under this section during a service period previously estab-
8 lished for that employee under section 5753 or under sec-
9 tion 9804.

10 “(g) No more than 25 percent of the total amount
11 in bonuses awarded under subsection (a) in any year may
12 be awarded to supervisors or management officials.

13 **“§ 9806. Term appointments**

14 “(a) The Administrator may authorize term appoint-
15 ments within the Administration under subchapter I of
16 chapter 33, for a period of not less than 1 year and not
17 more than 6 years.

18 “(b) Notwithstanding chapter 33 or any other provi-
19 sion of law relating to the examination, certification, and
20 appointment of individuals in the competitive service, the
21 Administrator may convert an employee serving under a
22 term appointment to a permanent appointment in the
23 competitive service within the Administration without fur-
24 ther competition if—



1 “(1) such individual was appointed under open,
2 competitive examination under subchapter I of chap-
3 ter 33 to the term position;

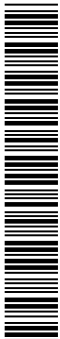
4 “(2) the announcement for the term appoint-
5 ment from which the conversion is made stated that
6 there was potential for subsequent conversion to a
7 career-conditional or career appointment;

8 “(3) the employee has completed at least 2
9 years of current continuous service under a term ap-
10 pointment in the competitive service;

11 “(4) the employee’s performance under such
12 term appointment was at least fully successful or
13 equivalent; and

14 “(5) the position to which such employee is
15 being converted under this section is in the same oc-
16 cupational series, is in the same geographic location,
17 and provides no greater promotion potential than
18 the term position for which the competitive examina-
19 tion was conducted.

20 “(c) Notwithstanding chapter 33 or any other provi-
21 sion of law relating to the examination, certification, and
22 appointment of individuals in the competitive service, the
23 Administrator may convert an employee serving under a
24 term appointment to a permanent appointment in the
25 competitive service within the Administration through in-



1 ternal competitive promotion procedures if the conditions
2 under paragraphs (1) through (4) of subsection (b) are
3 met.

4 “(d) An employee converted under this section be-
5 comes a career-conditional employee, unless the employee
6 has otherwise completed the service requirements for ca-
7 reer tenure.

8 “(e) An employee converted to career or career-condi-
9 tional employment under this section acquires competitive
10 status upon conversion.

11 **“§ 9807. Pay authority for critical positions**

12 “(a) In this section, the term ‘position’ means—

13 “(1) a position to which chapter 51 applies, in-
14 cluding a position in the Senior Executive Service;

15 “(2) a position under the Executive Schedule
16 under sections 5312 through 5317;

17 “(3) a position established under section 3104;
18 or

19 “(4) a senior-level position to which section
20 5376(a)(1) applies.

21 “(b) Authority under this section—

22 “(1) may be exercised only with respect to a po-
23 sition that—



1 “(A) is described as addressing a critical
2 need in the workforce plan under section
3 9802(b)(2)(A); and

4 “(B) requires expertise of an extremely
5 high level in a scientific, technical, professional,
6 or administrative field;

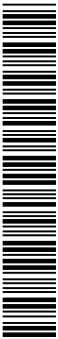
7 “(2) may be exercised only to the extent nec-
8 essary to recruit or retain an individual exceptionally
9 well qualified for the position; and

10 “(3) may be exercised only in retaining employ-
11 ees of the Administration or in appointing individ-
12 uals who were not employees of another Federal
13 agency as defined under section 5102(a)(1).

14 “(c)(1) Notwithstanding section 5377, the Adminis-
15 trator may fix the rate of basic pay for a position in the
16 Administration in accordance with this section. The Ad-
17 ministrators may not delegate this authority.

18 “(2) The number of positions with pay fixed under
19 this section may not exceed 10 at any time.

20 “(d)(1) The rate of basic pay fixed under this section
21 may not be less than the rate of basic pay (including any
22 comparability payments) which would otherwise be pay-
23 able for the position involved if this section had never been
24 enacted.

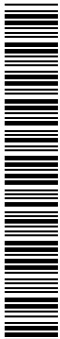


1 “(2) The annual rate of basic pay fixed under this
2 section may not exceed the per annum rate of salary pay-
3 able under section 104 of title 3.

4 “(3) Notwithstanding any provision of section 5307,
5 in the case of an employee who, during any calendar year,
6 is receiving pay at a rate fixed under this section, no allow-
7 ance, differential, bonus, award, or similar cash payment
8 may be paid to such employee if, or to the extent that,
9 when added to basic pay paid or payable to such employee
10 (for service performed in such calendar year as an em-
11 ployee in the executive branch or as an employee outside
12 the executive branch to whom chapter 51 applies), such
13 payment would cause the total to exceed the per annum
14 rate of salary which, as of the end of such calendar year,
15 is payable under section 104 of title 3.

16 **“§ 9808. Assignments of intergovernmental personnel**

17 “For purposes of applying the third sentence of sec-
18 tion 3372(a) (relating to the authority of the head of a
19 Federal agency to extend the period of an employee’s as-
20 signment to or from a State or local government, institu-
21 tion of higher education, or other organization), the Ad-
22 ministrator may, with the concurrence of the employee and
23 the government or organization concerned, take any action
24 which would be allowable if such sentence had been
25 amended by striking ‘two’ and inserting ‘four’.



1 **“§ 9809. Enhanced demonstration project authority**

2 “When conducting a demonstration project at the Ad-
3 ministration, section 4703(d)(1)(A) may be applied by
4 substituting ‘8,000’ for ‘5,000’.

5 **“§ 9810. Voluntary separation incentive payments**

6 “(a) In applying subchapter II of chapter 35, the Ad-
7 ministrator may provide for voluntary separation incentive
8 payments in excess of the dollar-amount limitation that
9 would otherwise apply under section 3523(b)(3)(B), sub-
10 ject to subsection (b).

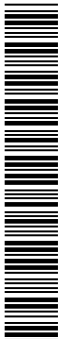
11 “(b) Voluntary separation incentive payments de-
12 scribed in subsection (a)—

13 “(1) may not exceed 50 percent of the annual
14 rate of basic pay of the employee receiving such pay-
15 ments (computed disregarding any comparability
16 payments under sections 5304–5304a);

17 “(2) may not, in any calendar year, be made to
18 more than—

19 “(A) 10 employees; or

20 “(B) such greater number of employees as
21 the Administrator may, with the approval of the
22 Office of Management and Budget, establish in
23 lieu of the number specified in subparagraph
24 (A) following notification to the appropriate
25 committees of Congress; and



1 “(3) may not be made to an employee if the
2 employee has within the last 12 months received, or
3 if the employee is then receiving, a bonus or allow-
4 ance under section 5753 or 5754 or under section
5 9804 or 9805.

6 “(c)(1) The proposed use of any workforce authori-
7 ties provided under this section shall be included in the
8 plan required by section 3522.

9 “(2) Whenever the Office of Personnel Management
10 approves the Administration’s plan required in such sec-
11 tion 3522, the Administration shall submit a copy of the
12 approved plan to the appropriate committees of Congress
13 within 15 days after the date on which it is so approved.

14 **“§ 9811. Science and technology scholarship program**

15 “(a)(1) The Administrator shall establish a National
16 Aeronautics and Space Administration Science and Tech-
17 nology Scholarship Program to award scholarships to indi-
18 viduals that is designed to recruit and prepare students
19 for careers in the Administration.

20 “(2) Individuals shall be selected to receive scholar-
21 ships under this section through a competitive process pri-
22 marily on the basis of academic merit, with consideration
23 given to financial need and the goal of promoting the par-
24 ticipation of individuals identified in section 33 or 34 of
25 the Science and Engineering Equal Opportunities Act.



1 “(3) To carry out the Program the Administrator
2 shall enter into contractual agreements with individuals
3 selected under paragraph (2) under which the individuals
4 agree to serve as full-time employees of the Administra-
5 tion, for the period described in subsection (f)(1), in posi-
6 tions needed by the Administration and for which the indi-
7 viduals are qualified, in exchange for receiving a scholar-
8 ship.

9 “(b) In order to be eligible to participate in the Pro-
10 gram, an individual must—

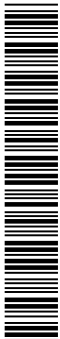
11 “(1) be enrolled or accepted for enrollment as
12 a full-time student at an institution of higher edu-
13 cation in an academic field or discipline described in
14 the list made available under subsection (d);

15 “(2) be a United States citizen; and

16 “(3) at the time of the initial scholarship
17 award, not be an employee (as defined in section
18 2105).

19 “(c) An individual seeking a scholarship under this
20 section shall submit an application to the Administrator
21 at such time, in such manner, and containing such infor-
22 mation, agreements, or assurances as the Administrator
23 may require.

24 “(d) The Administrator shall make publicly available
25 a list of academic programs and fields of study for which



1 scholarships under the Program may be utilized and shall
2 update the list as necessary.

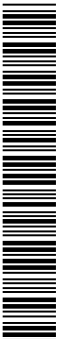
3 “(e)(1) The Administrator may provide a scholarship
4 under the Program for an academic year if the individual
5 applying for the scholarship has submitted to the Adminis-
6 trator, as part of the application required under sub-
7 section (c), a proposed academic program leading to a de-
8 gree in a program or field of study on the list made avail-
9 able under subsection (d).

10 “(2) An individual may not receive a scholarship
11 under this section for more than 4 academic years, unless
12 the Administrator grants a waiver.

13 “(3) The dollar amount of a scholarship under this
14 section for an academic year shall be determined under
15 regulations issued by the Administrator, but shall in no
16 case exceed the cost of attendance.

17 “(4) A scholarship provided under this section may
18 be expended for tuition, fees, and other authorized ex-
19 penses as established by the Administrator by regulation.

20 “(5) The Administrator may enter into a contractual
21 agreement with an institution of higher education under
22 which the amounts provided for a scholarship under this
23 section for tuition, fees, and other authorized expenses are
24 paid directly to the institution with respect to which the
25 scholarship is provided.

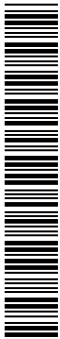


1 “(f)(1) The period of service for which an individual
2 shall be obligated to serve as an employee of the Adminis-
3 tration is, except as provided in subsection (h)(2), 24
4 months for each academic year for which a scholarship
5 under this section is provided.

6 “(2)(A) Except as provided in subparagraph (B), ob-
7 ligated service under paragraph (1) shall begin not later
8 than 60 days after the individual obtains the educational
9 degree for which the scholarship was provided.

10 “(B) The Administrator may defer the obligation of
11 an individual to provide a period of service under para-
12 graph (1) if the Administrator determines that such a de-
13 ferral is appropriate. The Administrator shall prescribe
14 the terms and conditions under which a service obligation
15 may be deferred through regulation.

16 “(g)(1) Scholarship recipients who fail to maintain
17 a high level of academic standing, as defined by the Ad-
18 ministrator by regulation, who are dismissed from their
19 educational institutions for disciplinary reasons, or who
20 voluntarily terminate academic training before graduation
21 from the educational program for which the scholarship
22 was awarded, shall be in breach of their contractual agree-
23 ment and, in lieu of any service obligation arising under
24 such agreement, shall be liable to the United States for
25 repayment within 1 year after the date of default of all



1 scholarship funds paid to them and to the institution of
2 higher education on their behalf under the agreement, ex-
3 cept as provided in subsection (h)(2). The repayment pe-
4 riod may be extended by the Administrator when deter-
5 mined to be necessary, as established by regulation.

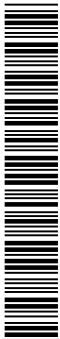
6 “(2) Scholarship recipients who, for any reason, fail
7 to begin or complete their service obligation after comple-
8 tion of academic training, or fail to comply with the terms
9 and conditions of deferment established by the Adminis-
10 trator pursuant to subsection (f)(2)(B), shall be in breach
11 of their contractual agreement. When recipients breach
12 their agreements for the reasons stated in the preceding
13 sentence, the recipient shall be liable to the United States
14 for an amount equal to—

15 “(A) the total amount of scholarships received
16 by such individual under this section; plus

17 “(B) the interest on the amounts of such
18 awards which would be payable if at the time the
19 awards were received they were loans bearing inter-
20 est at the maximum legal prevailing rate, as deter-
21 mined by the Treasurer of the United States,

22 multiplied by 3.

23 “(h)(1) Any obligation of an individual incurred
24 under the Program (or a contractual agreement there-



1 under) for service or payment shall be canceled upon the
2 death of the individual.

3 “(2) The Administrator shall by regulation provide
4 for the partial or total waiver or suspension of any obliga-
5 tion of service or payment incurred by an individual under
6 the Program (or a contractual agreement thereunder)
7 whenever compliance by the individual is impossible or
8 would involve extreme hardship to the individual, or if en-
9 forcement of such obligation with respect to the individual
10 would be contrary to the best interests of the Government.

11 “(i) For purposes of this section—

12 “(1) the term ‘cost of attendance’ has the
13 meaning given that term in section 472 of the High-
14 er Education Act of 1965;

15 “(2) the term ‘institution of higher education’
16 has the meaning given that term in section 101(a)
17 of the Higher Education Act of 1965; and

18 “(3) the term ‘Program’ means the National
19 Aeronautics and Space Administration Science and
20 Technology Scholarship Program established under
21 this section.

22 “(j)(1) There is authorized to be appropriated to the
23 Administration for the Program \$10,000,000 for each fis-
24 cal year.



1 “(2) Amounts appropriated under this section shall
2 remain available for 2 fiscal years.

3 **“§ 9812. Distinguished scholar appointment authority**

4 “(a) In this section—

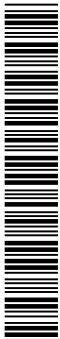
5 “(1) the term ‘professional position’ means a
6 position that is classified to an occupational series
7 identified by the Office of Personnel Management as
8 a position that—

9 “(A) requires education and training in the
10 principles, concepts, and theories of the occupa-
11 tion that typically can be gained only through
12 completion of a specified curriculum at a recog-
13 nized college or university; and

14 “(B) is covered by the Group Coverage
15 Qualification Standard for Professional and Sci-
16 entific Positions; and

17 “(2) the term ‘research position’ means a posi-
18 tion in a professional series that primarily involves
19 scientific inquiry or investigation, or research-type
20 exploratory development of a creative or scientific
21 nature, where the knowledge required to perform the
22 work successfully is acquired typically and primarily
23 through graduate study.

24 “(b) The Administration may appoint, without regard
25 to the provisions of section 3304(b) and sections 3309



1 through 3318, but subject to subsection (c), candidates
2 directly to General Schedule professional, competitive
3 service positions in the Administration for which public
4 notice has been given (in accordance with regulations of
5 the Office of Personnel Management), if—

6 “(1) with respect to a position at the GS–7
7 level, the individual—

8 “(A) received, within 2 years before the ef-
9 fective date of the appointment, from an ac-
10 credited institution authorized to grant bacca-
11 laurate degrees, a baccalaureate degree in a
12 field of study for which possession of that de-
13 gree in conjunction with academic achievements
14 meets the qualification standards as prescribed
15 by the Office of Personnel Management for the
16 position to which the individual is being ap-
17 pointed; and

18 “(B) achieved a cumulative grade point av-
19 erage of 3.0 or higher on a 4.0 scale and a
20 grade point average of 3.5 or higher for courses
21 in the field of study required to qualify for the
22 position;

23 “(2) with respect to a position at the GS–9
24 level, the individual—

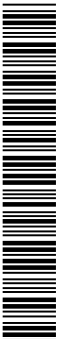


1 “(A) received, within 2 years before the ef-
2 fective date of the appointment, from an ac-
3 credited institution authorized to grant grad-
4 uate degrees, a graduate degree in a field of
5 study for which possession of that degree meets
6 the qualification standards at this grade level as
7 prescribed by the Office of Personnel Manage-
8 ment for the position to which the individual is
9 being appointed; and

10 “(B) achieved a cumulative grade point av-
11 erage of 3.5 or higher on a 4.0 scale in grad-
12 uate coursework in the field of study required
13 for the position;

14 “(3) with respect to a position at the GS-11
15 level, the individual—

16 “(A) received, within 2 years before the ef-
17 fective date of the appointment, from an ac-
18 credited institution authorized to grant grad-
19 uate degrees, a graduate degree in a field of
20 study for which possession of that degree meets
21 the qualification standards at this grade level as
22 prescribed by the Office of Personnel Manage-
23 ment for the position to which the individual is
24 being appointed; and



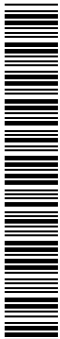
1 “(B) achieved a cumulative grade point av-
2 erage of 3.5 or higher on a 4.0 scale in grad-
3 uate coursework in the field of study required
4 for the position; or

5 “(4) with respect to a research position at the
6 GS-12 level, the individual—

7 “(A) received, within 2 years before the ef-
8 fective date of the appointment, from an ac-
9 credited institution authorized to grant grad-
10 uate degrees, a graduate degree in a field of
11 study for which possession of that degree meets
12 the qualification standards at this grade level as
13 prescribed by the Office of Personnel Manage-
14 ment for the position to which the individual is
15 being appointed; and

16 “(B) achieved a cumulative grade point av-
17 erage of 3.5 or higher on a 4.0 scale in grad-
18 uate coursework in the field of study required
19 for the position.

20 “(c) In making any selections under this section,
21 preference eligibles who meet the criteria for distinguished
22 scholar appointments shall be considered ahead of non-
23 preference eligibles.



1 “(d) An appointment made under this authority shall
2 be a career-conditional appointment in the competitive
3 civil service.

4 **“§ 9813. Travel and transportation expenses of cer-**
5 **tain new appointees**

6 “(a) In this section, the term ‘new appointee’
7 means—

8 “(1) a person newly appointed or reinstated to
9 Federal service to the Administration to—

10 “(A) a career or career-conditional ap-
11 pointment;

12 “(B) a term appointment;

13 “(C) an excepted service appointment that
14 provides for noncompetitive conversion to a ca-
15 reer or career-conditional appointment;

16 “(D) a career or limited term Senior Exec-
17 utive Service appointment;

18 “(E) an appointment made under section
19 203(c)(2)(A) of the National Aeronautics and
20 Space Act of 1958 (42 U.S.C. 2473(c)(2)(A));

21 “(F) an appointment to a position estab-
22 lished under section 3104; or

23 “(G) an appointment to a position estab-
24 lished under section 5108; or



1 “(2) a student trainee who, upon completion of
2 academic work, is converted to an appointment in
3 the Administration that is identified in paragraph
4 (1) in accordance with an appropriate authority.

5 “(b) The Administrator may pay the travel, transpor-
6 tation, and relocation expenses of a new appointee to the
7 same extent, in the same manner, and subject to the same
8 conditions as the payment of such expenses under sections
9 5724, 5724a, 5724b, and 5724c to an employee trans-
10 ferred in the interests of the United States Government.

11 **“§ 9814. Annual leave enhancements**

12 “(a)(1) In this subsection—

13 “(A) the term ‘newly appointed employee’
14 means an individual who is first appointed—

15 “(i) as an employee of the Federal Govern-
16 ment; or

17 “(ii) as an employee of the Federal Gov-
18 ernment following a break in service of at least
19 90 days after that individual’s last period of
20 Federal employment, other than—

21 “(I) employment under the Student
22 Educational Employment Program admin-
23 istered by the Office of Personnel Manage-
24 ment;



1 “(II) employment as a law clerk train-
2 ee;

3 “(III) employment under a short-term
4 temporary appointing authority while a
5 student during periods of vacation from
6 the educational institution at which the
7 student is enrolled;

8 “(IV) employment under a provisional
9 appointment if the new appointment is per-
10 manent and immediately follows the provi-
11 sional appointment; or

12 “(V) employment under a temporary
13 appointment that is neither full-time nor
14 the principal employment of the individual;

15 “(B) the term ‘period of qualified non-Federal
16 service’ means any period of service performed by an
17 individual that—

18 “(i) was performed in a position the duties
19 of which were directly related to the duties of
20 the position in the Administration which that
21 individual will fill as a newly appointed em-
22 ployee; and

23 “(ii) except for this section, would not oth-
24 erwise be service performed by an employee for
25 purposes of section 6303; and



“(C) the term ‘directly related to the duties of the position’ means duties and responsibilities in the same line of work which require similar qualifications.

5 “(2)(A) For purposes of section 6303, the Adminis-
6 trator may deem a period of qualified non-Federal service
7 performed by a newly appointed employee to be a period
8 of service of equal length performed as an employee.

9 “(B) A decision under subparagraph (A) to treat a
10 period of qualified non-Federal service as if it were service
11 performed as an employee shall continue to apply so long
12 as that individual serves in or under the Administration.

“(3)(A) Notwithstanding section 6303(a), the annual leave accrual rate for an employee of the Administration in a position paid under section 5376 or 5383, or for an employee in an equivalent category whose rate of basic pay is greater than the rate payable at GS–15, step 10, shall be 1 day for each full biweekly pay period.

19 “(B) The accrual rate established under this para-
20 graph shall continue to apply to the employee so long as
21 such employee serves in or under the Administration.

22 **“§ 9815. Limited appointments to Senior Executive**
23 **Service positions**

24 “(a) In this section, the terms ‘career reserved posi-
25 tion’, ‘Senior Executive Service position’, ‘senior executive’



1 and ‘career appointee’ have the meanings set forth in sec-
2 tion 3132(a).

3 “(b) Subject to succeeding provisions of this section,
4 the Administrator may, notwithstanding any other provi-
5 sion of this title, fill a career reserved position on a tem-
6 porary basis, but only if—

7 “(1) such position is vacant as a result of—

8 “(A) the separation of the incumbent; or

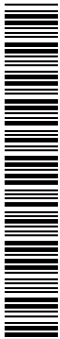
9 “(B) the temporary absence of the incum-
10 bent due to illness, training, or reassignment;
11 or

12 “(2) such position is or would be difficult to fill
13 in any other manner due to the fact that such posi-
14 tion is likely to be eliminated within the next 2
15 years.

16 “(c) Notwithstanding sections 3132 and 3394(b), an
17 appointment made by the Administrator under subsection
18 (b) shall not exceed 2 years.

19 “(d) The Administrator may extend an appointment
20 under subsection (b) for as long as necessary to meet a
21 contingency described in subsection (b)(1), but for not to
22 exceed 1 year and not if the circumstance described in
23 subsection (b)(2) pertains.

24 “(e) The number of career reserved positions filled
25 under subsection (b) may not at any time exceed 10 per-



1 cent of the total number of Senior Executive Service posi-
2 tions then authorized for the Administration under section
3 3133.

4 “(f) An individual appointed to a career reserved po-
5 sition on a temporary basis under subsection (b) shall, if
6 such individual was so appointed from a civil service posi-
7 tion held under a career or career-conditional appoint-
8 ment, be entitled, upon completion of that temporary ap-
9 pointment, to be reemployed in the position from which
10 such individual was so appointed (or an equivalent posi-
11 tion), in accordance with such regulations as the Office
12 of Personnel Management may prescribe.

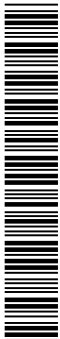
13 “(g) An appointment to a career reserved position on
14 a temporary basis under subsection (b) may not be made
15 without the prior approval of the Office of Personnel Man-
16 agement if the individual—

17 “(1) is to be appointed—

18 “(A) from outside the Federal Govern-
19 ment; or

20 “(B) from a civil service position held
21 under an appointment other than a career or
22 career-conditional appointment; or

23 “(2) is a senior executive, but not a career ap-
24 pointee.



1 “(h) An individual appointed to a career reserved po-
2 sition on a temporary basis under subsection (b) who is
3 not a career appointee shall, for purposes of performance
4 awards under section 5384, be treated as a career ap-
5 pointee.

6 **“§ 9816. Qualifications pay**

7 “(a) Notwithstanding section 5334, the Adminis-
8 trator may set the pay of an employee paid under the Gen-
9 eral Schedule at any step within the pay range for the
10 grade of the position, if such employee—

11 “(1) possesses unusually high or unique quali-
12 fications; and

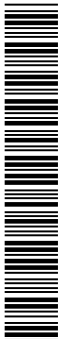
13 “(2) is assigned—

14 “(A) new duties, without a change of posi-
15 tion; or

16 “(B) to a new position.

17 “(b) If an exercise of the authority under this section
18 relates to a current employee selected for another position
19 within the Administration, a determination shall be made
20 that the employee’s contribution in the new position will
21 exceed that in the former position, before setting pay
22 under this section.

23 “(c) Pay as set under this section is basic pay for
24 such purposes as pay set under section 5334.



1 “(d) If the employee serves for at least 1 year in the
2 position for which the pay determination under this sec-
3 tion was made, or a successor position, the pay earned
4 under such position may be used in succeeding actions to
5 set pay under chapter 53.

6 “(e) Before setting any employee’s pay under this
7 section, the Administrator shall submit a plan to the Of-
8 fice of Personnel Management and the appropriate com-
9 mittees of Congress, that includes—

10 “(1) criteria for approval of actions to set pay
11 under this section;

12 “(2) the level of approval required to set pay
13 under this section;

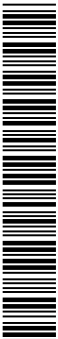
14 “(3) all types of actions and positions to be cov-
15 ered;

16 “(4) the relationship between the exercise of au-
17 thority under this section and the use of other pay
18 incentives; and

19 “(5) a process to evaluate the effectiveness of
20 this section.

21 **“§ 9817. Reporting requirement**

22 “The Administrator shall submit to the appropriate
23 committees of Congress, not later than February 28 of
24 each of the next 10 years beginning after the date of en-

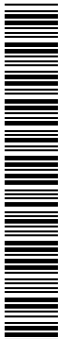


1 actment of this chapter, a report that provides the fol-
2 lowing:

3 “(1) A summary of all bonuses paid under sub-
4 sections (b)–(c) of section 9804 during the preceding
5 fiscal year. Such summary shall include the total
6 amount of bonuses paid, the total number of bo-
7 nuses paid, the percentage of bonuses awarded to
8 supervisors, and the average percentage used to cal-
9 culate the total average bonus amount, under each
10 of those subsections.

11 “(2) A summary of all bonuses paid under sub-
12 sections (b)–(c) of section 9805 during the preceding
13 fiscal year. Such summary shall include the total
14 amount of bonuses paid, the total number of bo-
15 nuses paid, the percentage of bonuses awarded to
16 supervisors, and the average percentage used to cal-
17 culate the total average bonus amount, under each
18 of those subsections.

19 “(3) The total number of term appointments
20 converted during the preceding fiscal year under sec-
21 tion 9806 and, of that total number, the number of
22 conversions that were made to address a critical
23 need described in the workforce plan pursuant to
24 section 9802(b)(2).

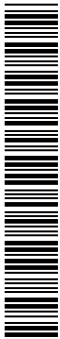


1 “(4) The number of positions for which the rate
2 of basic pay was fixed under section 9807 during the
3 preceding fiscal year, the number of positions for
4 which the rate of basic pay under such section was
5 terminated during the preceding fiscal year, and the
6 number of times the rate of basic pay was fixed
7 under such section to address a critical need de-
8 scribed in the workforce plan pursuant to section
9 9802(b)(2).

10 “(5) The number of scholarships awarded
11 under section 9811 during the preceding fiscal year
12 and the number of scholarship recipients appointed
13 by the Administration during the preceding fiscal
14 year.

15 “(6) The total number of distinguished scholar
16 appointments made under section 9812 during the
17 preceding fiscal year and, of that total number, the
18 number of appointments that were made to address
19 a critical need described in the workforce plan pur-
20 suant to section 9802(b)(2).

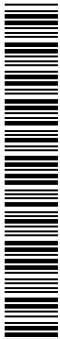
21 “(7) The average amount paid per appointee,
22 and the largest amount paid to any appointee, under
23 section 9813 during the preceding fiscal year for
24 travel and transportation expenses.



1 “(8) The total number of employees who were
2 awarded enhanced annual leave under section 9814
3 during the preceding fiscal year; of that total num-
4 ber, the number of employees who were serving in a
5 position addressing a critical need described in the
6 workforce plan pursuant to section 9802(b)(2); and,
7 for employees in each of those respective groups, the
8 average amount of additional annual leave such em-
9 ployees earned in the preceding fiscal year (over and
10 above what they would have earned absent section
11 9814).

12 “(9) The total number of appointments made
13 under section 9815 during the preceding fiscal year
14 and, of that total number, the number of appoint-
15 ments that were made to address a critical need de-
16 scribed in the workforce plan pursuant to section
17 9802(b)(2).

18 “(10) The number of employees for whom the
19 Administrator set the pay under section 9816 during
20 the preceding fiscal year and the number of times
21 pay was set under such section to address a critical
22 need described in the workforce plan pursuant to
23 section 9802(b)(2).”.



1 (b) CLERICAL AMENDMENT.—The table of chapters
2 for part III of title 5, United States Code, is amended
3 by adding at the end the following:

“98. National Aeronautics and Space Administration 9801”.

